

FISCAL NOTE

Bill #: HB0725

Title: Revise laws governing conservation easements and deed restrictions

Primary Sponsor: Maedje, R

Status: As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

	<u>FY 2004 Difference</u>	<u>FY 2005 Difference</u>
Expenditures:		
State Special Revenue	\$14,990	\$9,164
Revenue:		
State Special Revenue	\$13,600	\$10,400
Net Impact on General Fund Balance:	\$0	\$0

<input type="checkbox"/> Significant Local Gov. Impact	<input checked="" type="checkbox"/> Technical Concerns
<input type="checkbox"/> Included in the Executive Budget	<input type="checkbox"/> Significant Long-Term Impacts
<input checked="" type="checkbox"/> Dedicated Revenue Form Attached	<input checked="" type="checkbox"/> Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Labor and Industry

- Sections 2 and 3 of the bill will require the Board of Realty Regulation to license encumbrance brokers. Based upon information obtained by the Department of Labor and Industry, it is assumed that there will be approximately 34 organizations that would be required to obtain a license as an encumbrance broker.
- Based upon Section 3 of the bill, it is assumed that the operating and start-up costs will be assessed to the registration of encumbrance brokers. Costs in FY 2004 associated with the licensing of encumbrance brokers would include a contract with a consultant to develop the requirements of an encumbrance broker at an estimated cost of \$5,000; a special two-day meeting of the Board of Realty Regulation (5 board members) to review and make a determination of the requirements and administrative rules at a cost of \$2,640 (\$500 per diem and \$2,140 travel); administrative rule notices at a cost of \$400 (10 pages @ \$40); programming of oracle for the new license code at \$500; \$4,000 for 80 hours of legal services from the Office of Legal Services at a cost of \$50 per hour; \$50 for printing of forms; and \$2,400 for 160 hours of administrative duties based upon time and labor at a cost of \$15 per hour.
- Costs in FY 2005 would include a contract with a consultant knowledgeable in conservation easements at an estimated cost of \$2,500; an assessment of board member travel and per diem based upon the need to make decisions related to encumbrance brokers of \$264; \$4,000 for 80 hours of legal services from the

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Office of Legal Services at a cost of \$50 per hour; and \$2,400 for 160 hours of administrative duties based upon time and labor at a cost of \$15 per hour.

4. Revenue in FY 2004 is estimated to be \$13,600 based upon an assumed number of 34 organizations that would be required to obtain a license at an application and license fee of \$425. Revenue in FY 2005 is estimated to be \$10,400 based upon the authority in 37-51-310, MCA, for a renewal of a license. That fee is estimated to be \$325 for 34 organizations.

FISCAL IMPACT:

	<u>FY 2004</u> <u>Difference</u>	<u>FY 2005</u> <u>Difference</u>
Department of Labor and Industry		
<u>Expenditures:</u>		
Personal Services	\$6,900	\$6,400
Operating Expenses	<u>8,090</u>	<u>2,764</u>
TOTAL	\$14,990	\$9,164
<u>Funding of Expenditures:</u>		
State Special Revenue (02)	\$14,990	\$9,164
<u>Revenues:</u>		
State Special Revenue (02)	\$13,600	\$10,400
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
State Special Revenue (02)	(\$1,390)	\$1,236

TECHNICAL NOTES:

Department of Labor and Industry

1. In Section 2 of the bill, page 5, line 13, "encumbrance broker" is defined as "an organization", and Section 3 requires that an encumbrance broker be licensed. However, 37-51-102 as it pertains to the other licenses issued by the Board of Realty Regulation defines a "person" as an individual. Also, 37-51-301 provides that licenses can only be granted to individuals. The bill does not seem to allow an individual [a natural person] to attempt to solicit or facilitate conservation easements, based on the requirement that an encumbrance broker be an organization. Further clarification may be necessary.

Department of Natural Resources and Conservation

2. Section 14 of the bill gives local governmental bodies (undefined term in the bill) the power to approve whether conservation easements may be granted or filed of record in the local clerk & recorder's office. This conflicts with the exclusive power of the State Board of Land Commissioners under Article X, Section 4 of the 1972 Montana Constitution to decide whether to make dispositions of interests in state trust lands.

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DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay?
(please explain)
No.
- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?
The advantage in using a special revenue fund is that the money in the fund is relegated to the specific purpose of providing for the licensure of Encumbrance Brokers. Money in the general fund would not have the same restrictions and could be used for any purpose.
- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)
Yes – Fees are set commensurate with costs.
- d) Does the need for this state special revenue provision still exist? ___Yes ___No (Explain)
This is a new provision that is intended to license “encumbrance brokers”.
- e) Does the dedicated revenue affect the legislature’s ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)
No.
- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)
There is no currently existing program so the legislatively recognized need would be realized only if the bill passes.
- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)
No efficiencies or inefficiencies will result from this legislation or funding the program by general fund.